

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Team # 6	CCRB Case #: 201306254	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 06/24/2013 9:15 PM	Location of Incident: Stuyvesant Avenue and Pulaski Street	Precinct: 81	18 Mo. SOL 12/24/2014	EO SOL 12/24/2014	
Date/Time CV Reported Tue, 06/25/2013 1:38 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 07/12/2013 2:02 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Mark Xylas	11251	948160	081 PCT
2. SGT Richard Mezzatesta	03513	930735	081 PCT
3. POM Ryan Galvin	08096	948997	081 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Richard Mezzatesta	Abuse: Sgt. Richard Mezzatesta stopped § 87(2)(b) and § 87(2)(b)	
B.POM Ryan Galvin	Abuse: PO Ryan Galvin stopped § 87(2)(b) and § 87(2)(b)	
C.POM Mark Xylas	Abuse: PO Mark Xylas stopped § 87(2)(b) and § 87(2)(b)	
D.POM Mark Xylas	Discourtesy: PO Mark Xylas spoke discourteously to § 87(2)(b)	
E.POM Ryan Galvin	Abuse: PO Ryan Galvin frisked § 87(2)(b)	
F.POM Ryan Galvin	Abuse: PO Ryan Galvin frisked § 87(2)(b)	
G.POM Ryan Galvin	Abuse: PO Ryan Galvin searched § 87(2)(b)	
H.POM Ryan Galvin	Abuse: PO Ryan Galvin frisked § 87(2)(b)	
I.SGT Richard Mezzatesta	Abuse: Sgt. Richard Mezzatesta frisked § 87(2)(b)	
J.POM Mark Xylas	Force: PO Mark Xylas used physical force against § 87(2)(b)	

Case Summary

On June 25, 2013, PO § 87(2)(b) of the 76th Precinct filed a complaint with IAB via telephone on behalf of her son, § 87(2)(b) and his friends § 87(2)(b) and § 87(2)(b). PO § 87(2)(b) herself did not witness the incident. The complaint was forwarded to the CCRB on July 12, 2013 via IAB log #2013-28263.

At approximately 9:20 p.m. on June 24, 2013, § 87(2)(b) and § 87(2)(b) were stopped by Sgt. Richard Mezzatesta, PO Mark Xylas, and PO Ryan Galvin of the 81st Precinct near the intersection of Stuyvesant Avenue and Pulaski Street, in Brooklyn. The following allegations resulted:

- **Allegation A: Abuse of Authority - Sgt. Richard Mezzatesta stopped § 87(2)(b) and § 87(2)(b)**
- **Allegation B: Abuse of Authority - PO Ryan Galvin stopped § 87(2)(b) and § 87(2)(b)**
- **Allegation C: Abuse of Authority - PO Mark Xylas stopped § 87(2)(b) and § 87(2)(b)**
§ 87(2)(g)
- **Allegation D: Discourtesy – PO Mark Xylas spoke discourteously to § 87(2)(b)**
- **Allegation E: Abuse of Authority – PO Ryan Galvin frisked § 87(2)(b)**
§ 87(2)(g)
- **Allegation F: Abuse of Authority – PO Ryan Galvin frisked § 87(2)(b)**
§ 87(2)(g)
- **Allegation G: Abuse of Authority – PO Ryan Galvin searched § 87(2)(b)**
§ 87(2)(g)
- **Allegation H: Abuse of Authority – PO Ryan Galvin frisked § 87(2)(b)**
- **Allegation I: Abuse of Authority – Sgt. Richard Mezzatesta frisked § 87(2)(b)**
§ 87(2)(g)
- **Allegation J: Force – PO Mark Xylas used physical force against § 87(2)(b)**
§ 87(2)(g)

Results of Investigation

Civilian Statement(s)

Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *old at the time of the incident, is a 6', 145-pound black male with black hair and brown eyes.* § 87(2)(b)

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on August 2, 2013 (Encl. 6B-D). § 87(2)(g)

At approximately 9:20 p.m. on June 24, 2013, § 87(2)(b) was with his friends § 87(2)(b) and § 87(2)(b) near the intersection of Stuyvesant Avenue and Pulaski Street, in Brooklyn. The three males were standing in front of a convenience store, located about a block from a housing development, identified by the investigation as the Roosevelt Houses. Both § 87(2)(b) and § 87(2)(b) were § 87(2)(b) years old at the time. § 87(2)(b) was wearing a backpack. § 87(2)(b) was engaged in an argument with § 87(2)(b). While he stated that both of their voices were raised, he denied that they were shouting, or that the argument became physical. § 87(2)(b) did not state if § 87(2)(b) was arguing as well. There were several bystanders in the area, but § 87(2)(b) did not know any of them.

As the two argued, they were approached by three plainclothes officers in an unmarked black sedan. The investigation identified these officers as PO Mark Xylas, PO Ryan Galvin, and Sgt. Richard Mezzatesta. § 87(2)(b) described PO Xylas as a stocky 5'9" white male in his twenties with light hair, PO Galvin as a slim 6' white male in his twenties, and Sgt. Mezzatesta as a 6' white male. The officers asked if § 87(2)(b) and his friends were fighting. They then ordered all three to get up against the store's exterior wall. In his sworn statement, § 87(2)(b) stated that he protested the stop, and informed the officers that his mother, § 87(2)(b) was a police officer assigned to the 76th Precinct. PO Xylas replied, "I don't give a fuck."

The three males lined up against the wall. They were then frisked one-by-one. In his telephone statement, § 87(2)(b) stated that PO Galvin first removed § 87(2)(b)'s backpack, and then frisked both him and § 87(2)(b) on their pants pockets. § 87(2)(b) was also frisked at that time, but § 87(2)(b) did not see which officer conducted this frisk, or what parts of § 87(2)(b)'s body this frisk covered.

In his sworn statement, § 87(2)(b) stated that PO Galvin frisked all three males one-by-one, first frisking § 87(2)(b) then § 87(2)(b) then § 87(2)(b). Each male was frisked only on their pants pockets. After § 87(2)(b) was frisked, PO Galvin opened § 87(2)(b)'s backpack and looked through its contents. Initially, § 87(2)(b) stated that after PO Galvin frisked § 87(2)(b) Sgt. Mezzatesta frisked him as well. Later, however, he stated that Sgt. Mezzatesta did not frisk him, and had only assisted PO Galvin in his frisk by holding § 87(2)(b)'s hands against the wall. Nothing was found on § 87(2)(b) or his friends during the frisks or the search of § 87(2)(b)'s bag.

After § 87(2)(b) was frisked, PO Galvin pulled both of § 87(2)(b)'s arms behind his back and placed him in handcuffs. Seeing this, § 87(2)(b) told the officers that they had no right to arrest § 87(2)(b). He did not specify whether he raised his voice, or if he made any movements. In response, PO Xylas used his elbow to push § 87(2)(b) by his back face-first into the wall, causing an abrasion on § 87(2)(b)'s left cheek. He then placed § 87(2)(b) in handcuffs as well. The officers did not handcuff § 87(2)(b) at any point. Neither § 87(2)(b) nor § 87(2)(b) was injured during the incident.

Once § 87(2)(b) and § 87(2)(b) were in handcuffs, they were placed in the back of the officers' car and driven away. § 87(2)(b) repeated that his mother was an officer, and provided her phone number to the officers. PO Xylas called § 87(2)(b) on his cell phone, and informed her that her son had been fighting in the street. When he asked her what she wanted him to do with her son, she told PO Xylas to release both § 87(2)(b) and § 87(2)(b). The officers first drove both males home, with § 87(2)(b) being released first, followed by § 87(2)(b) at his home at § 87(2)(b).

When § 87(2)(b) was returned home, he called his mother to tell her what had happened. § 87(2)(b) came home a few hours later to examine the abrasion on his face. She then got in contact with the three officers, and asked them to come to § 87(2)(b). All three officers drove to the Pelzers' residence a short time later and spoke to § 87(2)(b). The officers did not explain their actions. When § 87(2)(b) demanded that they apologize for causing the abrasion to his face, the officers denied injuring him. The three officers then returned to their vehicles and drove away. § 87(2)(b) did not seek any medical attention for the abrasion to his cheek.

During § 87(2)(b)'s interview, an abrasion was visible on his left cheek. This injury was documented in his CCRB photographs (Encl. 6F-G).

Witness: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) old at the time of the incident, is a black female. She has no relation to any of the victims. Her contact information was provided by § 87(2)(b) who spoke to her after the incident.

Telephone Statement

§ 87(2)(b) provided a telephone statement on November 14, 2013 (Encl. 7A). At approximately 9:20 p.m. on June 24, 2013, § 87(2)(b) observed three males, identified by the investigation as § 87(2)(b) and § 87(2)(b) exiting a convenience store at the corner of Stuyvesant Avenue and Pulaski Street, in Brooklyn. The three males were speaking loudly to each other. § 87(2)(b) did not think that they were arguing, and stated that they were not shouting. The males were not pushing each other or displaying any kind of physical aggression at the time.

Three plainclothes officers, identified by the investigation as Sgt. Ryan Mezzatesta, PO Mark Xylas, and PO Ryan Galvin, drove up to the three males in an unmarked black sedan. § 87(2)(b) described PO Xylas as a heavyset Hispanic male wearing a black shirt, PO Galvin as a 6' white male with blond hair and a gray shirt, and Sgt. Mezzatesta only as a white male. The three males were then pushed up against a wall, with § 87(2)(b)'s face making contact with the wall. § 87(2)(b) did not recall which officer pushed § 87(2)(b) against the wall, but stated that it was not PO Galvin.

§ 87(2)(b) did not pay attention to what happened to the males after they were pushed against the wall. She did not see the officers frisk or search any of the three males. Several minutes later, however, she heard § 87(2)(b) shouting that his mother was a police officer. He then began shouting out his mother's phone number. § 87(2)(b) then took out her cell phone and began recording the incident. After she began recording, the officers loaded the three males into the rear of their vehicle and drove away.

Later, § 87(2)(b) called § 87(2)(b)'s mother, § 87(2)(b) and provided her a copy of the video she took of the incident.

Complainant: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) *old at the time of the incident, is a black female.* § 87(2)(b)

Telephone Statement

§ 87(2)(b) provided a telephone statement on July 19, 2013 (Encl. 8A). § 87(2)(g) § 87(2)(b) did not witness the incident itself. However, at approximately 1:00 a.m., § 87(2)(b) called the 81st Precinct, and asked for the Anti-Crime team to visit her at her home. Two plainclothes officers, identified by the investigation as PO Mark Xylas and PO Ryan Galvin, drove to § 87(2)(b)'s home at § 87(2)(b) in Brooklyn. § 87(2)(b) described PO Xylas as a 5'8" white male in his 20s, wearing a black shirt. She gave his shield number as "11251." She described PO Galvin as a 5'9" white male in his 20s, wearing a grey shirt. § 87(2)(b) asked the officers why they had stopped her son, § 87(2)(b) and his friends. The officers explained that § 87(2)(b) and his friends had been arguing. They explained that there had been reports in the area of a robbery, but also stated that they did not suspect § 87(2)(b) of being involved in the robbery. Neither officer admitted to pushing § 87(2)(b) against a wall at any point.

Attempts to Contact Civilians

- § 87(2)(b) provided an address for § 87(2)(b) during his sworn statement. An August 12, 2013 Lexis Nexis search revealed no further contact information for § 87(2)(b). Please-call letters were sent to § 87(2)(b)'s address on August 12, 2013 and August 19, 2013. Neither letter has been returned to the CCRB by the US Postal Service. To date, § 87(2)(b) has not responded to these contact attempts.
- § 87(2)(b) provided an address and telephone number for § 87(2)(b) during his telephone statement. A first call was made to § 87(2)(b) on July 24, 2013. During the call, he confirmed that he was a minor. § 87(2)(b) was instructed to have his parent or guardian contact the CCRB to give permission to interview him. A first please-call letter was mailed to § 87(2)(b) on July 24, 2013. A follow-up call was made on July 29, 2013, during which § 87(2)(b)'s brother identified their grandmother, § 87(2)(b), as their guardian. He also provided a separate phone number for § 87(2)(b). A call was made to § 87(2)(b) later that day. She gave permission to speak to § 87(2)(b) on the condition that she would be present during any statements. On August 1, 2013, a third call was made to § 87(2)(b). He scheduled an interview for himself and § 87(2)(b) on August 8, 2013. On August 5, 2013, § 87(2)(b) called and asked to reschedule the interview for August 15, 2013. Neither § 87(2)(b) nor § 87(2)(b) however, appeared for that appointment. Neither called ahead of time to cancel or reschedule. A missed appointment

letter was mailed on August 19, 2013. Neither of the letters sent to § 87(2)(b) were returned by the US Postal Service. Two more calls were made to § 87(2)(b) and § 87(2)(b) on August 19, 2013 and August 23, 2013. A message was left on the first call. On the second call, § 87(2)(b) scheduled an interview for September 10, 2013. Neither § 87(2)(b) nor § 87(2)(b) appeared for this interview, either. To date, § 87(2)(b) has failed to contact the CCRB to reschedule his interview, and has not provided a sworn statement.

NYPD Statement(s):

Subject Officer: PO RYAN GALVIN

- *PO Galvin, § 87(2)(b) old at the time of the incident, is a 6'3", 235-pound white male with blond hair and hazel eyes.*
- *PO Galvin worked from 8:05 p.m. on June 24, 2013 until 4:40 a.m. on June 25, 2013. He was assigned to the 81st Precinct Anti-Crime team, and worked with Sgt. Richard Mezzatesta and PO Mark Xylas. He was in plainclothes, and assigned to an unmarked black Impala, RMP #8131.*

Memo Book

PO Galvin incorrectly documented the incident as occurring on June 25, 2013. The investigation determined that the incident actually occurred at 9:20 p.m. on June 24, 2013.

At 9:20 p.m., § 87(2)(b) and § 87(2)(b) were stopped for fighting on the street. They were also suspected of criminal possession of a weapon. At 9:35 p.m., both males were released at their homes, and given warnings. Both males had been handcuffed and removed from the location at which they had been stopped to ensure officer safety (Encl. 9A-C).

CCRB Testimony

PO Galvin was interviewed at the CCRB on December 19, 2013 (Encl. 9D-G). On the evening of June 24, 2013, PO Galvin and his team were on patrol in the vicinity of the Roosevelt housing development, in Brooklyn. While the team usually worked day tours, they had specifically been moved to a midnight tour in response to a robbery pattern active in the development at the time. The pattern described a group of three black males in their teens committing robberies in the area. PO Galvin did not specify if the robberies were armed. He had been informed of the pattern during his roll call meeting at the beginning of the tour. PO Galvin was not shown any of the specific paperwork associated with the pattern, including the robbery pattern sheet, or any of the particular complaints that were included in the pattern.

At approximately 9:20 p.m., the team drove through the intersection of Stuyvesant Avenue and Pulaski Street, located on the border of the Roosevelt development. PO Galvin noticed three young black males, identified by the investigation as § 87(2)(b) and § 87(2)(b) crossing the street. The males were approximately 20 to 30 feet in front of PO Galvin's vehicle. § 87(2)(b) was wearing a backpack at the time. All three males were arguing loudly with each other, and shoving each other back and forth. Additionally, all three males were gripping their waistbands with one hand. PO Galvin did not recall if they were continuously holding onto their waistbands, or if he observed them reach for their waistbands at some point. As the group crossed the street, one of the males, identified by the investigation as § 87(2)(b) lifted the front of his shirt. § 87(2)(b) turned his back towards the officers' car before lifting the shirt, preventing

PO Galvin from seeing if there were any objects on his waistband. PO Galvin did not recall if § 87(2)(b) reached for his waistband when his shirt was lifted.

PO Galvin felt that the three males' loud argument and shoving constituted disorderly conduct. Furthermore, all three individuals were black males in their teens, matching the description of the suspects from the robbery pattern. This resemblance, combined with the three males gripping their waistbands, and § 87(2)(b) lifting his shirt, led PO Galvin to believe that they might be the suspects from the pattern. PO Galvin further explained that robberies often appear to be simple street fights to an outside observer.

All three officers exited the vehicle and approached the males. By this time, the males had finished crossing the street, and were standing on the sidewalk. The officers all told the males to stop, but the males continued walking. PO Galvin then reached out towards § 87(2)(b)'s shoulder to physically stop him. § 87(2)(b) however, turned and swatted PO Galvin's arm away. The three males then stopped and turned towards the officers. When the males stopped, PO Galvin noticed that § 87(2)(b) had an abrasion on the left side of his face.

Once the males stopped, PO Galvin frisked both § 87(2)(b) and § 87(2)(b) to ensure that they were not armed. PO Galvin suspected that they might be carrying weapons due to their potential involvement in the robbery pattern. Both individuals were frisked around their waistbands. PO Galvin additionally patted the exterior of § 87(2)(b)'s backpack. He did not open the backpack or reach inside of it. Nothing was found on either male as a result of the frisks. When PO Galvin started frisking § 87(2)(b) he initially resisted by trying to slap PO Galvin's hands away. Within moments, however, he gave up, and allowed PO Galvin to pat him. § 87(2)(b) in contrast, was compliant, and did not offer any resistance. While PO Galvin frisked § 87(2)(b) and § 87(2)(b) Sgt. Mezzatesta and PO Xylas spoke with § 87(2)(b) PO Galvin did not recall what was said during this interaction. He did not see any officers frisk § 87(2)(b) at any point, and denied frisking § 87(2)(b) himself.

While no weapons were found on § 87(2)(b) or § 87(2)(b) PO Galvin still intended to issue the males summonses for disorderly conduct. However, § 87(2)(b)'s repeated attempts to bat PO Galvin's hands away, both during the stop and the frisk, caused PO Galvin to fear that § 87(2)(b) posed a threat to his safety. He decided to handcuff § 87(2)(b) in order to restrain him. When he applied the handcuffs, § 87(2)(b) verbally protested, but did not offer any kind of physical resistance.

Once § 87(2)(b) was handcuffed, § 87(2)(b) began shouting and cursing at PO Galvin. § 87(2)(b) walked towards § 87(2)(b) coming to within five feet of him. Sgt. Mezzatesta and PO Xylas stepped between the two males to prevent § 87(2)(b) from interfering. The two officers then placed § 87(2)(b) in handcuffs. PO Galvin did not recall which officer handcuffed § 87(2)(b) Initially, he did not recall what actions Sgt. Mezzatesta and PO Xylas took towards § 87(2)(b) to restrain him. Later, however, he recalled that § 87(2)(b) was placed against a nearby wall, and that the officers pulled his hands behind his back. He denied seeing either officer push § 87(2)(b) face-first against the wall, or use any force beyond pulling § 87(2)(b)'s arms back.

Once § 87(2)(b) was placed in handcuffs, a crowd of approximately twenty people gathered at the location. The bystanders were shouting angrily at the officers. Due to the crowd's hostility, Sgt. Mezzatesta decided that it would be safer to remove § 87(2)(b) and § 87(2)(b) to the 81st Precinct stationhouse, and issue them summonses there. The two were loaded into the officers'

vehicle and driven away, while § 87(2)(b) who had been compliant throughout the stop, and was not handcuffed, was allowed to walk away.

Once the two males were loaded into the car, their attitudes changed. The two males ceased protesting, and began speaking to the officers in calm voices. Given their change in attitude, and the more pressing issue of the robbery pattern in the development, Sgt. Mezzatesta decided to release the two males at their homes, rather than take them in and give them summonses. § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) No officer responded, “I don’t give a fuck.” No officer used profanity at any point during the incident. § 87(2)(b) gave his mother’s phone number to PO Xylas, who called her on his cell phone. § 87(2)(b) asked the officers to drop § 87(2)(b) and her son off at their respective homes, which they did.

At approximately 1:00 a.m. on June 25, 2013, § 87(2)(b) called the 81st Precinct stationhouse, identifying herself as an officer. She asked for the Anti-Crime team to come to her home at § 87(2)(b). Only PO Galvin and PO Xylas went to the Pelzers’ residence. There, the officers explained what had happened to § 87(2)(b). § 87(2)(b) stood behind his mother during this interaction, shouting profanities at them. When § 87(2)(b) asked how her son had received the abrasion to his face, PO Galvin told her that it had been there when he stopped § 87(2)(b). He also explained that her son had been stopped in relation to the robbery pattern. The two officers then returned to their vehicle and drove away.

When shown cell phone footage of the incident taken by § 87(2)(b) PO Galvin identified the three white males, from left to right, as Sgt. Mezzatesta, himself, and PO Xylas. He identified the male standing by Sgt. Mezzatesta as § 87(2)(b) the male by him as § 87(2)(b) and the male by PO Xylas as § 87(2)(b). When shown where Sgt. Mezzatesta is seen in the video leaning over § 87(2)(b) and reaching towards his hip, PO Galvin stated that he did not recall seeing this action himself, and did not know what Sgt. Mezzatesta was doing. When shown where Sgt. Mezzatesta and PO Xylas can be seen struggling with § 87(2)(b) PO Galvin reiterated that he did not recall what specific actions these officers took to restrain § 87(2)(b).

Subject Officer: PO MARK XYLAS

- *PO Xylas, § 87(2)(b) old at the time of the incident, is a 6’, 245-pound white male with brown hair and hazel eyes.*
- *On June 24, 2013, PO Xylas worked the same tour and assignment as PO Galvin.*

Memo Book

At 9:15 p.m. on June 24, 2013, PO Xylas stopped § 87(2)(b) and an unidentified young black male at the intersection of Stuyvesant Avenue and Pulaski Street, in Brooklyn. They were charged with disorderly conduct. At 9:35 p.m., § 87(2)(b) and the male were released at their respective homes. PO Xylas spoke to § 87(2)(b)’s mother. He noted that the stop was conducted on suspicion of criminal possession of a weapon, and that § 87(2)(b) was frisked and handcuffed (Encl. 10A-C).

CCRB Testimony

PO Xylas was interviewed at the CCRB on October 1, 2013 (Encl. 10D-F). § 87(2)(g)

When PO Xylas first observed § 87(2)(b) and § 87(2)(b) they were standing on the corner of the intersection of Stuyvesant Avenue and Pulaski Street, in Brooklyn, rather than crossing the street. He also noted that the three males matched the descriptions of the suspects from the robbery pattern. PO Xylas only recalled the pattern describing the suspects as three black males in their teens. PO Xylas observed one of the three males reach towards his waistband with his hand. PO Xylas identified this male as § 87(2)(b). The investigation, however, determined that this was actually § 87(2)(b) § 87(2)(b) using his right hand, reached down once towards his waistband. PO Xylas did not see if § 87(2)(b) reached for anything on the waistband, or reached inside the waistband. This motion, combined with the males' arguing and the descriptions from the robbery pattern, led PO Xylas to suspect that § 87(2)(b) might be armed.

Initially, PO Xylas stated that § 87(2)(b) and § 87(2)(b) while speaking emphatically and gesturing with their hands in front of their chests, did not reach for their waistbands. Later, however, when asked if he suspected that § 87(2)(b) and § 87(2)(b) might also be armed, he stated that both of these males had reached to their waistbands as well before the officers approached. In contrast with § 87(2)(b) and § 87(2)(b) both reached down using two hands. PO Xylas did not recall how many times § 87(2)(b) or § 87(2)(b) reached for their waistbands. While he cited these gestures as contributing to his suspicion that they were armed, PO Xylas also acknowledged the possibility that § 87(2)(b) and § 87(2)(b) were merely adjusting their pants.

All three officers exited the vehicle and approached the males. PO Xylas' first priority was to break up the fight. Once the dispute had been settled, he would conduct an investigation to determine if the males were armed. While the three males did initially try to walk away once the officers approached them, PO Xylas did not see any officers reach out towards them, and did not see any of the males swatting away the officers' arms. When he first approached, PO Xylas noticed a lump on the left side of § 87(2)(b)'s face.

Soon after the approach, one of the other officers frisked § 87(2)(b). PO Xylas did not observe this frisk, and did not know which of his partners conducted it, or what parts of § 87(2)(b)'s body it covered. Once § 87(2)(b) was frisked, PO Xylas frisked § 87(2)(b) around the waistband. PO Xylas did not recall if § 87(2)(b) was frisked during the incident. § 87(2)(b) and § 87(2)(b) were frisked for weapons. He based his suspicion that § 87(2)(b) and § 87(2)(b) were armed on their fighting behavior, their various gestures towards their waistbands, and their resemblances to the robbery suspects. While PO Xylas recalled that § 87(2)(b) was wearing a backpack at the time, he did not recall if any officer searched it at any point. Nothing was found on § 87(2)(b) or § 87(2)(b) as a result of their frisks.

After the frisks were conducted, one of the males became loud and argumentative, and started flailing his arms. While PO Xylas identified this male as § 87(2)(b) the investigation determined that it was, in fact, § 87(2)(b). PO Galvin subsequently handcuffed § 87(2)(b). Once § 87(2)(b) saw his friend being handcuffed, he also became loud and argumentative, and started swearing at the officers. § 87(2)(b) also tried to move between § 87(2)(b) and PO Galvin. PO Xylas intercepted § 87(2)(b) before he was able to interfere. PO Xylas only believed that he had probable cause to arrest § 87(2)(b) for disorderly conduct after he attempted to interfere with § 87(2)(b)'s handcuffing.

PO Xylas attempted to turn § 87(2)(b) around and pull his arms back for handcuffing. § 87(2)(b) resisted first by flailing his arms, and then by holding his arms to his chest. Sgt. Mezzatesta then moved over to assist PO Xylas in restraining § 87(2)(b). The two officers moved § 87(2)(b) against a nearby wall. PO Xylas stated that while § 87(2)(b) was pushed against the wall, he was not slammed against the wall, and his face was not forcibly pressed against it. Once § 87(2)(b) was pushed against the wall, PO Xylas and Sgt. Mezzatesta were able to pull his arms back and handcuff him. No other force was used to restrain him.

Later, when § 87(2)(b) and § 87(2)(b) had been loaded into the officers' vehicle and removed from the location, § 87(2)(b) informed PO Xylas that he had been in a fight with another group of males earlier in the evening. § 87(2)(b) did not state whether the lump on his cheek had resulted from that earlier fight. PO Xylas confirmed that he was the officer who spoke to § 87(2)(b) over the phone. He also stated that only he and PO Galvin returned to the § 87(2)(b) residence later that night to speak to § 87(2)(b) in-person.

When shown cell phone footage of the incident taken by § 87(2)(b) PO Xylas identified the three white males, from left to right, as Sgt. Mezzatesta, himself, and PO Xylas. He identified the male standing by himself as § 87(2)(b) and the male by PO Galvin as § 87(2)(b). He did not recognize the male standing by Sgt. Mezzatesta. When shown where Sgt. Mezzatesta is seen in the video leaning over the unidentified male and reaching towards his hip, PO Xylas stated that he did not recall seeing this action himself, and did not know what Sgt. Mezzatesta was doing.

Subject Officer: SGT. RICHARD MEZZATESTA

- *Sgt. Mezzatesta, § 87(2)(b) old at the time of the incident, is a 6', 200-pound white male with black hair and brown eyes.*
- *On July 24, 2013, Sgt. Mezzatesta worked the same tour and assignment as PO Galvin and PO Xylas.*

Memo Book

Like PO Galvin, Sgt. Mezzatesta incorrectly documented the incident as occurring on June 25, 2013. The investigation determined that the incident actually occurred at 9:20 p.m. on June 24, 2013.

At 9:20 p.m., two males were stopped for fighting in the street. At 9:35 p.m., an unspecified report was filed in regards to the incident. § 87(2)(b) and § 87(2)(b) were released into their guardians' custody and issued admonishments (Encl. 11A-C).

CCRB Testimony

Sgt. Mezzatesta was interviewed at the CCRB on January 2, 2014 (Encl. 11D-F). § 87(2)(g)

When Sgt. Mezzatesta first observed the three males, they were already standing on the corner, rather than crossing the street. Sgt. Mezzatesta did not hear what they were shouting. While all three males were involved, the argument seemed to be primarily between § 87(2)(b) and § 87(2)(b) with § 87(2)(b) only involved peripherally. The three were only arguing, and none of them were pushing or striking any of the others.

At first, Sgt. Mezzatesta did not feel any need to intervene in the dispute, as it was purely verbal. Shortly after the officers pulled up, however, one of the males, identified by the investigation as § 87(2)(b) reached down and gripped his waistband. Sgt. Mezzatesta did not see any objects on § 87(2)(b)'s waistband, and did not see him holding anything in his hand. He did not recall which side of the waistband § 87(2)(b) grasped. This gesture indicated to Sgt. Mezzatesta that § 87(2)(b) might be carrying a weapon of some sort on his waistband. Fearing that § 87(2)(b) intended to escalate the dispute, Sgt. Mezzatesta decided to intervene in the fight. Sgt. Mezzatesta's decision to approach the males was motivated solely by their fighting, and § 87(2)(b)'s gesture towards his waistband. He did not suspect the males of being involved in the robbery pattern.

PO Xylas and PO Galvin exited the vehicle along with Sgt. Mezzatesta. The officers had not discussed their intended course of action before stepping out of the vehicle. As Sgt. Mezzatesta approached the males, he told § 87(2)(b) "Show me your hands." § 87(2)(b) immediately held both of his hands, palms open, up to his chest, showing that he was not holding anything. Sgt. Mezzatesta moved § 87(2)(b) next to the store's exterior wall and patted him around his waistband. He did not frisk any other parts of § 87(2)(b)'s body. The frisk was conducted to ensure that § 87(2)(b) after having gestured to his waistband, was not carrying a weapon. Nothing was found on § 87(2)(b)'s waistband.

As Sgt. Mezzatesta frisked § 87(2)(b) PO Xylas and PO Galvin spoke to the other two males. Sgt. Mezzatesta did not recall which officer spoke with which civilian, or what was said or done to § 87(2)(b) and § 87(2)(b). While he recalled hearing somebody shouting loudly, he did not know who it was. Sgt. Mezzatesta did not recall seeing any officers frisk § 87(2)(b) or § 87(2)(b). He also did not recall if any of the three males were wearing a backpack, or if any backpacks were searched during the stop.

Sgt. Mezzatesta made the decision to remove § 87(2)(b) and § 87(2)(b) from the location to issue summonses before either individual was handcuffed. He did not cite any threats to the officers' personal safety necessitating that either individual be restrained. Initially, Sgt. Mezzatesta stated that § 87(2)(b) was handcuffed first. Later, however, he stated that he did not recall the order in which the two were handcuffed. He did not recall which officer placed § 87(2)(b) in handcuffs, but stated that § 87(2)(b) offered no resistance. § 87(2)(b) did not interfere with § 87(2)(b)'s arrest. PO Xylas handcuffed § 87(2)(b). § 87(2)(b) resisted him by pulling his arms towards his chest, with fists clenched, and stiffening them. PO Xylas, however, was able to overpower this resistance and pull § 87(2)(b)'s arms back. This took approximately ten seconds. No other force was used against § 87(2)(b).

Sgt. Mezzatesta did not see any injuries to § 87(2)(b) at any point. When shown photographs of a scrape to § 87(2)(b)'s face, he did not recall seeing such an injury on him at any point. While Sgt. Mezzatesta became aware at some point during the incident that § 87(2)(b) was a police officer, he did not recall if he learned this from § 87(2)(b) or from PO Xylas during the phone call. He did not hear any officer tell § 87(2)(b) "I don't give a fuck." No officers used any profanity during the incident. After dropping § 87(2)(b) off at his home, Sgt. Mezzatesta had no further interaction with either § 87(2)(b) or his mother.

When shown the video footage § 87(2)(b) took of the incident, he identified the officers, from left to right, as himself, PO Galvin, and PO Xylas. He identified the male on the right as § 87(2)(b) and the male on the left, whom he is seen frisking, as § 87(2)(b). When shown that all

three officers can be seen helping handcuff § 87(2)(b) Sgt. Mezzatesta stated that he did not recall what specific actions he took towards § 87(2)(b)

NYPD Document(s)

Robbery Pattern Sheet #111

On June 17, 2013, Det. Philip Facenda of the 81st Precinct Detective Squad opened a robbery pattern regarding a series of incidents occurring in and around the Roosevelt housing development, in Brooklyn. The pattern details twelve incidents, occurring between May 21, 2013 and June 23, 2013. In each instance, the perpetrators approach the victim from behind, push them, and then steal their cell phones. The victims were primarily young females, and the suspects were universally described as black males. One of the robberies specified a suspect as being 14 years old, but the rest did not indicate the ages of any of the suspects. None of the robberies involved weapons. Ten of the robberies involve a single suspect. One of the robberies, occurring on June 18, 2013, featured two suspects. The last robbery occurred on June 23, 2013, the night before the incident, along Lewis Avenue. In this final robbery, there were three suspects. The pattern was closed after an arrest was made on August 6, 2013 (Encl. 14I-K).

Other Evidence

§ 87(2)(b) s Photographs

§ 87(2)(b) provided eight photographs of § 87(2)(b) s injuries. She stated that the first four photographs were taken on the night of the incident, June 24, 2013. The remaining four photographs were taken approximately one week after the incident. Each shows an abrasion on § 87(2)(b) s left cheek (Encl. 12A-B).

Video Footage

Cell phone footage of the incident, taken by § 87(2)(b) was provided to the investigation by § 87(2)(b) (Encl. 13A). In it, three black males can be seen standing next to each other, with their hands up against a wall. The investigation identified these individuals, from left to right, as § 87(2)(b) and § 87(2)(b). Three white officers in plainclothes can be seen standing behind each male. The investigation identified these officers, from left to right, as Sgt. Richard Mezzatesta, PO Ryan Galvin, and PO Mark Xylas. Sgt. Mezzatesta can initially be seen extending his arms over § 87(2)(b) s hips. In the background, several unidentified individuals can be heard shouting protests at the officers. At 0:17, PO Galvin can be seen holding § 87(2)(b) s hands behind his back.

At 0:50, Sgt. Mezzatesta leaves § 87(2)(b) and approaches § 87(2)(b) standing between PO Galvin and PO Xylas. At 0:55, § 87(2)(b) shouts, “Shit like this happens in the street every fucking day! No, I’m tired of boys stopping me!” Sgt. Mezzatesta then takes out a pair of handcuffs, and the three officers surround § 87(2)(b). At 1:10, § 87(2)(b) says, “I wasn’t fighting in the street!” § 87(2)(b) begins struggling with the officers. The officers’ bodies, however, obstruct the camera’s view of § 87(2)(b). At 1:20, Sgt. Mezzatesta can be seen reaching one of his arms out and holding the back of § 87(2)(b) s head. It is unclear if § 87(2)(b) is pushed against the wall at this time.

At 1:30, one of the bystanders shouts, “Get their fucking tags!” The camera then moves over to a black unmarked vehicle. The individual behind the camera moves to inspect the vehicle’s license plate number, but the plate is bent, preventing the plate number from being read.

Status of Civil Proceedings

- Neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim with the City of New York as of November 8, 2013 with regard to the incident (Encl. 18L).

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) or § 87(2)(b) (Encl. 3A-D).

Subject Officer(s) CCRB History

- Sgt. Richard Mezzatesta has been a member of the service for 11 years and there are no substantiated CCRB allegations against him (Encl. 2A).
- PO Mark Xylas has been a member of the service for 4 years and there are no substantiated CCRB allegations against him (Encl. 2B).
- PO Ryan Galvin has been a member of the service for 3 years and there are no substantiated CCRB allegations against him (Encl. 2C).

Conclusion

Identification of Subject Officer(s)

- § 87(2)(b) stated that he and his friends were stopped by three white male officers in plainclothes. Sgt. Mezzatesta, PO Xylas, and PO Galvin all stated that they participated in the stop, and all three identified themselves in § 87(2)(b) video footage. § 87(2)(g)
- § 87(2)(b) stated that the officer who spoke discourteously towards him and slammed his face against the wall also called his mother on his cell phone. While all three officers denied using profanity, or slamming § 87(2)(b)'s face against the wall, they all stated that PO Xylas was one of the officers who helped handcuff § 87(2)(b). This is corroborated in § 87(2)(b) video footage. Furthermore, all three officers stated that PO Xylas spoke to § 87(2)(b) on his phone. § 87(2)(g)
- § 87(2)(b) stated that the officer who frisked all three males was the same officer who placed § 87(2)(b) in handcuffs. This officer also searched § 87(2)(b)'s backpack after he was frisked. While PO Galvin stated that he only frisked § 87(2)(b) and § 87(2)(b) all three officers confirmed that PO Galvin was the officer who placed § 87(2)(b) in handcuffs. PO Galvin can also be seen holding § 87(2)(b)'s arms behind his back in § 87(2)(b) video footage. PO Galvin additionally stated that he handled § 87(2)(b)'s backpack. § 87(2)(g)
- In his sworn statement, § 87(2)(b) initially stated that Sgt. Mezzatesta frisked § 87(2)(b) but later stated that Sgt. Mezzatesta only assisted PO Galvin in his frisk. Sgt. Mezzatesta himself, however, stated that he frisked § 87(2)(b). In § 87(2)(b) video

footage, Sgt. Mezzatesta can be seen patting § 87(2)(b)'s waistband. § 87(2)(g)

Allegations Not Pleaded

- In his telephone statement, § 87(2)(b) alleged that PO Xylas told him and his friends, “You’re about to be arrested.” § 87(2)(b) he did not mention this in his sworn statement, § 87(2)(g)
- PO Xylas stated that he frisked § 87(2)(b) § 87(2)(b) himself did not corroborate this, § 87(2)(g)

Investigative Findings and Recommendations

Allegation A: Abuse of Authority - Sgt. Richard Mezzatesta stopped § 87(2)(b)

and § 87(2)(b)

Allegation B: Abuse of Authority - PO Ryan Galvin stopped § 87(2)(b)

and § 87(2)(b)

Allegation C: Abuse of Authority - PO Mark Xylas stopped § 87(2)(b)

and § 87(2)(b)

It is undisputed that Sgt. Mezzatesta, PO Xylas, and PO Galvin all stopped § 87(2)(b) and § 87(2)(b). It is also undisputed that the three males were arguing loudly on a street corner, with numerous bystanders nearby. While PO Galvin and PO Xylas stated that the three males were pushing and shoving each other, § 87(2)(b) and Sgt. Mezzatesta all stated that the fight was purely verbal.

An officer requires reasonable suspicion that a person has committed an offense in order to stop them. *People v. DeBour*, 40 N.Y.2d 210 (1976) (Encl. 1A-K). New York State Penal Law §240.20 states that fighting and creating unreasonable noise in public constitutes disorderly conduct (Encl. 1L).

§ 87(2)(g)

Allegation D: Discourtesy – PO Mark Xylas spoke discourteously to § 87(2)(b)

Allegation E: Abuse of Authority – PO Ryan Galvin frisked § 87(2)(b)

Allegation G: Abuse of Authority – PO Ryan Galvin searched § 87(2)(b)

§ 87(2)(b) alleged that when he told PO Xylas that his mother was a police officer, he responded, “I don’t give a fuck.” He also alleged that PO Galvin frisked him, and searched the interior of § 87(2)(b)'s backpack. All three officers denied that profanity was used at any point. None of the other officers observed PO Galvin frisk § 87(2)(b) or open § 87(2)(b)'s backpack. § 87(2)(b) video footage does not show any of these allegations. § 87(2)(b) herself did not see any of the males being frisked or searched.

§ 87(2)(g)

Allegation H: Abuse of Authority – PO Ryan Galvin frisked § 87(2)(b)

Allegation I: Abuse of Authority – Sgt. Richard Mezzatesta frisked § 87(2)(b)

Both § 87(2)(b) and PO Galvin stated that PO Galvin frisked § 87(2)(b). While § 87(2)(b) initially stated that Sgt. Mezzatesta frisked § 87(2)(b), he later stated that he only assisted PO Galvin conduct his frisk. Neither PO Galvin nor PO Xylas recalled Sgt. Mezzatesta frisking § 87(2)(b). Sgt. Mezzatesta, however, stated that he did, in fact, frisk § 87(2)(b). This was confirmed by § 87(2)(b) video footage, which shows Sgt. Mezzatesta patting § 87(2)(b)'s right hip.

§ 87(2)(g)

All three officers stated that at the time of the incident, they had been specifically assigned to address a robbery pattern, involving three black male teenagers committing robberies at the Roosevelt housing development. Both PO Galvin and PO Xylas stated that they suspected all three males of being involved in the robberies, based on their general resemblance to the description of the suspects, and that this suspicion, combined with gestures to their waistbands, contributed to a general suspicion that the two males were armed. Sgt. Mezzatesta specifically stated that he did not suspect the males of any involvement in the robberies. Robbery Pattern Sheet #111 confirmed that there was a pattern active in the development at the time of the incident. One of the robberies was committed on June 23, 2013, the day before the incident, involved three suspects. The majority involved only one suspect. None of the robberies listed on the pattern were armed robberies.

All three officers consistently alleged that § 87(2)(b) reached towards his waistband as he argued with his friends, and that they thus suspected § 87(2)(b) of being armed. PO Galvin stated that § 87(2)(b) had been gripping his waistband with one hand as he walked. He then turned away from the officers and lifted his shirt, but did not reach for his waistband. Both PO Xylas and Sgt. Mezzatesta stated that § 87(2)(b) reached down towards his waistband once, with one hand. While PO Xylas did not recall if he reached into his pants, Sgt. Mezzatesta stated that § 87(2)(b) gripped his waistband, and held it continuously. None of the officers saw any objects on § 87(2)(b)'s waistband at any point. § 87(2)(b) did not mention § 87(2)(b) making any gestures towards his waistband.

An officer requires reasonable suspicion that an individual is armed in order to conduct a frisk. People v. DeBour, 40 N.Y.2d 210 (1976) (Encl. 1A-K). The totality of information available to an officer may yield reasonable suspicion, even if individual pieces of information, taken in isolation, might prove innocuous. People v. Johnson, 2013 LEXIS 7502 (App. Div. 1st Dept., 2013) (Encl. 1M-N).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation F: Abuse of Authority – PO Ryan Galvin frisked § 87(2)(b)

It is undisputed that PO Galvin frisked § 87(2)(b). PO Galvin stated that he conducted the frisk based on a suspicion that § 87(2)(b) was armed. These suspicions were based on § 87(2)(b)'s fighting behavior, furtive movement, and potential involvement in a series of robberies. Neither Sgt. Mezzatesta nor PO Xylas recalled seeing PO Galvin frisk § 87(2)(b).

§ 87(2)(g)

Both PO Galvin and PO Xylas alleged that § 87(2)(b) was holding his waistband as he argued with § 87(2)(b). Neither officer saw any objects on § 87(2)(b)'s waist. Furthermore, PO Xylas did not initially state that § 87(2)(b) had reached for his waistband, and only mentioned this action after being specifically asked if he suspected that § 87(2)(b) was armed. PO Xylas also indicated that the movement could have simply been § 87(2)(b) adjusting his pants. Sgt. Mezzatesta did not corroborate this motion.

As mentioned earlier, the three officers had been specifically tasked with addressing a robbery pattern at the Roosevelt development, involving three young black male suspects. Only PO Galvin and PO Xylas, however, suspected § 87(2)(b) and § 87(2)(b) of any involvement in the pattern. Robbery Pattern Sheet #111 recorded the details of the prior robberies, describing an incident involving three young black males on June 23, 2013.

An officer requires reasonable suspicion that an individual is armed in order to conduct a frisk. People v. DeBour, 40 N.Y.2d 210 (1976) (Encl. 1A-K).

§ 87(2)(g)

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Allegation J: Force – PO Mark Xylas used physical force against § 87(2)(b)

§ 87(2)(b) alleged that PO Xylas pushed his face against a wall, causing an abrasion to his left cheek. While all three officers stated that § 87(2)(b) was placed against a wall during his handcuffing, they all denied that § 87(2)(b)'s face was forcibly slammed against the wall. PO Galvin and PO Xylas both stated that they noticed an injury to § 87(2)(b)'s left cheek when they initially stopped him. PO Galvin described it as an abrasion, while PO Xylas described it as a lump. Sgt. Mezzatesta did not recall seeing any injuries to § 87(2)(b) at any point during the incident. This abrasion can be seen both in photographs that § 87(2)(b) took in the aftermath of the incident, and § 87(2)(b)'s CCRB photographs. While § 87(2)(b) video footage shows the three officers surrounding § 87(2)(b) and struggling with him, it is unclear in the video if § 87(2)(b)'s face is pushed forcibly against the wall. It is also unclear in the video if § 87(2)(b) is injured before the officers surrounded him.

§ 87(2)(g)
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Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
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Reviewer: _____
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